

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
Telecommunications Carriers Eligible for Universal Service Support)	WC Docket No. 09-197
)	
Connect America Fund)	WC Docket No. 10-90
)	

ORDER

Adopted: November 15, 2019

Released: November 19, 2019

By the Commission: Commissioners Starks and Rosenworcel dissenting and issuing separate statements

I. INTRODUCTION

1. In this Order, the Commission addresses the petition of CTIA and others (collectively, Petitioners)¹ seeking a waiver of the Commission’s rules updating the Lifeline program’s minimum service standard for mobile broadband usage, which otherwise would take effect on December 1, 2019.² Petitioners also seek to halt the phase-down of the support amount for Lifeline service that does not meet the broadband minimum standard,³ which will decrease from \$9.25/month to \$7.25/month on December 1, 2019.

2. We find that, given the unexpectedly large growth in mobile broadband usage over the past three years and the resultant unexpectedly large increase to the minimum service standard that results from the formula the Commission adopted in 2016, good cause exists to partially grant CTIA’s petition on this issue. Specifically, we waive the rule to the extent it would establish a minimum service standard greater than 3 GB per month, beginning on December 1, 2019. In contrast, we further find that Petitioners have not shown that good cause exists to halt the scheduled phase-down of support for Lifeline voice service, and we therefore deny that portion of the Petition.

II. BACKGROUND

3. In 2016, the Commission made several changes to the Lifeline program. One such change was the implementation of minimum service standards for Lifeline-supported services,⁴ including

¹ National Consumer Law Center, on behalf of its low-income clients, National Hispanic Media Coalition, OCA—Asian Pacific American Advocates, and United Church of Christ, OC Inc.

² Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study, WC Docket No. 11-42 et al. (filed June 27, 2019) (Petition).

³ Throughout this Order, references to phasing down the support amount for “voice service” or “voice-only service” include a phase-down in support for Lifeline offerings that do not meet the Lifeline broadband minimum service standards.

⁴ *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 3989-97, paras. 73-98 (2016) (*2016 Lifeline Order* or *2016 Order*); 47 CFR § 54.408.

mobile broadband,⁵ to ensure that Lifeline subscribers receive the type of “robust service which is essential to participate in today’s society,”⁶ and to allow them to subscribe to the services which have “been subscribed to by a substantial majority of residential customers.”⁷ The minimum standards were also created with the hope of striking “a balance between the demands of affordability and reasonable comparability.”⁸

4. The *2016 Order* set forth a formula to calculate the updated minimum service standard for mobile broadband usage based on certain data regarding consumer broadband usage.⁹ To give Lifeline participants and providers time to adjust to the new minimum service standards, the Commission specified the minimum usage allowance for mobile broadband service for the first two updates of that standard, with the standard increasing in each successive year. As a result, the minimum standard for mobile broadband usage was set at 500 MB/month beginning on December 2, 2016, increased to 1 GB/month on December 1, 2017, and then to 2 GB/month on December 1, 2018.¹⁰ The next update to this standard is scheduled to take effect on December 1, 2019. On July 25, 2019, the Wireline Competition Bureau (Bureau) released a Public Notice announcing that, beginning December 1, 2019, the minimum standard for mobile broadband usage would be 8.75 GB/month as calculated using the formula from the *2016 Order*.¹¹

5. The *2016 Order* also set out, with limited exceptions, a scheduled phase-down of the support amount for Lifeline offerings—including Lifeline voice-only offerings—that did not meet the broadband minimum service standards. The Commission concluded that a forward-looking Lifeline program would be better served by focusing on broadband services meeting certain minimum criteria,¹² and as part of shifting the program’s focus to broadband, the Commission concluded that support for Lifeline service not meeting the broadband minimum service standards would be reduced to \$7.25/month on December 1, 2019, then reduced again to \$5.25/month on December 1, 2020, and thereafter eliminated in most areas on December 1, 2021.¹³

6. On June 27, 2019, Petitioners sought a waiver of both the Commission’s December 2019 update to the minimum service standard for mobile broadband usage, and the Commission’s December 2019 phase-down, to \$7.25, of the support amount for Lifeline-supported voice service. On July 1, 2019,

⁵ *2016 Order*, 31 FCC Rcd at 3994-97, paras. 91-98.

⁶ *Id.* at 3988, para. 69.

⁷ *Id.* at 3988, para. 70 (quoting 47 U.S.C. § 254(c)(1)(B)).

⁸ *Id.* at 3989, para. 71.

⁹ *Id.* at 3995-96, para. 94; 47 CFR § 54.408(c)(2)(ii)(A)-(D). The minimum service standard for mobile broadband is calculated by finding the product of: (1) The average number of mobile subscriptions per household; (2) the percentage of Americans who own a smartphone; and (3) the average data used per mobile smartphone subscriber. The product of (1)-(3) is then multiplied by 0.7, and the result is rounded up to the nearest 250 MB.

¹⁰ *2016 Order*, 31 FCC Rcd at 3995, para. 93; 47 CFR § 54.408(b)(2)(ii)(A)-(C).

¹¹ *Wireline Competition Bureau Announces Updated Lifeline Minimum Service Standards and Indexed Budget Amount*, Public Notice, 34 FCC Rcd 6363, 6364 (WCB 2019).

¹² *2016 Order*, 31 FCC Rcd at 3981, para. 52.

¹³ *Id.* at 4003, para. 117; 47 CFR § 54.403(a)(2)(i)-(iv). In census blocks with only one Lifeline provider, providers may receive reimbursement for qualifying voice service at \$5.25 per month even after December 1, 2021. *See 2016 Order*, 31 FCC Rcd at 4004, para. 120.

the Bureau issued a Public Notice seeking comment on the Petition.¹⁴ The Bureau received 16 comments in response, along with multiple *ex parte* letters.

III. DISCUSSION

7. On the basis of the record before us, we grant the Petition in part and otherwise deny it. As a general matter, “an agency must adhere to its own rules and regulations.”¹⁵ Strict application of a rule may be justified “to preserve incentives for compliance and to realize the benefits of easy administration that the rule was designed to achieve.”¹⁶ To warrant consideration for waiver, a petitioner must “plead with particularity the facts and circumstances” which warrant the granting of the requested waiver.¹⁷ In evaluating good cause for waiver,¹⁸ the Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.¹⁹ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of policy on an overall basis.²⁰

8. *Minimum Service Standard for Mobile Broadband Usage.* Our review of the record convinces us that an increase in the minimum service standard from 2 GB/month to 8.75 GB/month, as provided for under the Commission’s primary methodology for updating the minimum service standard for mobile broadband usage, risks upsetting the careful balance the Commission struck when establishing the Lifeline minimum service standards in the *2016 Order*. In that order, for example, rather than simply applying its primary methodology to set the initial minimum service standard for mobile broadband usage in 2016, which would have yielded a standard of 2 GB/month, the Commission instead set the initial standard at 500 MB/month and then set a gradual transition to increasing it at a rate of no more than 1 GB/month each year.²¹ Among other measures reflecting its overall balancing approach, the Commission “cho[se] to adopt a more gradual phase-in of this standard,” “in order to allow the Lifeline market an appropriate period to adjust to the introduction of mobile broadband into the program.”²²

9. In practice, however, the primary methodology for updating the minimum standard for mobile broadband usage under the Lifeline program’s rules yields a far larger year-over-year change than we believe the Commission anticipated. The largest year-over-year increase in the mobile broadband usage minimum standard under the Commission-specified transition was a 1 GB/month annual increase, which stands in stark contrast to the 6.75 GB/month annual increase specified by that methodology for 2019. And indeed, we do not believe the Commission foresaw such growth in mobile broadband usage—as the Commission then noted, subscribers’ mobile data usage had increased by only 18.1% from 2015 to 2016.²³

¹⁴ *Wireline Competition Bureau Seeks Comment on Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study*, Public Notice, 34 FCC Rcd 5234 (WCB 2019).

¹⁵ *NetworkIP, LLC v. FCC*, 548 F.3d 116, 127 (D.C. Cir. 2008).

¹⁶ *Mary V. Harris Found. v. FCC*, 776 F.3d 21, 28 (D.C. Cir. 2015).

¹⁷ *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 & n.9 (D.C. Cir. 1969) (*WAIT Radio*).

¹⁸ 47 CFR § 1.3.

¹⁹ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

²⁰ *WAIT Radio*, 418 F.2d at 1159; *Northeast Cellular*, 897 F.2d at 1166.

²¹ *2016 Order*, 31 FCC Rcd at 3995, 3996, paras. 93, 95.

²² *Id.* at 3995, 3996, paras. 93, 95.

²³ *Id.* at 3997, para. 97.

10. Though the record contains no clear evidence on the extent of additional costs, which makes it difficult to precisely quantify the likely effect of an increase in the minimum usage allowance,²⁴ we find it reasonable to anticipate that a more than four-fold increase in the minimum usage allowance would require substantially greater network resources,²⁵ and, in turn, the associated costs would be passed along to resellers and/or end-users. Absent a more substantial transition period, the large increase in the minimum standard for mobile broadband usage could unduly disrupt service to existing Lifeline subscribers. We thus find that the potential benefits of a significantly increased mobile broadband usage standard are outweighed by the possible hardship that could be imposed on Lifeline subscribers.²⁶

11. Indeed, the significant increase in the standard from 2 GB to 8.75 GB/month is inconsistent with the Commission's apparent vision for increases in minimum standards. When it implemented the mobile broadband usage standard in 2016, before allowing the formula to set the mobile broadband standard in 2019, the Commission established an annual and predictable incremental increase by increasing the minimum standard from 500 MB/month to 1 GB/month for the second year and then increasing that amount again by 1 GB/month for a total of 2 GB/month for the third year. This stair-step approach to increasing the standard not only allowed Lifeline carriers time to plan for the increase and adjust their Lifeline offerings and operations accordingly, but it also established the precedent of no more than doubling usage from one year to the next.

12. Nonetheless, we are mindful of our statutory obligation to ensure that Lifeline supports an evolving level of service,²⁷ that the Lifeline minimum service standards "must be updated on a regular basis,"²⁸ and that the wireless market has continued to evolve in the direction of larger data allowances.²⁹ Indeed, according to the Commission's *2018 Communications Marketplace Report*, the average smartphone subscriber used 5.1 GB/month in 2017, which was an increase of 275% from the average usage of 1.361 GB per month in 2014 that the Commission took notice of in the *2016 Lifeline Order*.³⁰ In fact, one reason for the large increase in the December 2019 standard is the mobile broadband formula

²⁴ For example, facilities-based carriers such as Sprint have not quantified the additional costs of an increase (for example, what opportunity costs Sprint would face with such an increase or what additional investment it would need to make to maintain sufficient capacity for subscribers), noting instead more vaguely that Assurance (its Lifeline brand) would need to develop a billing system for Lifeline service (and not quantifying those costs nor the costs saved by sharing a billing system with Sprint's other brands). *See, e.g.*, Sprint Comments at 8, n.13. In turn, wireless resellers have not detailed how much they pay to their wholesale partners (either in total or on a per-megabyte basis) nor how much their customer base actually uses of the current 2 GB allocation (most consumers typically do not hit data caps imposed by carriers) nor how much usage would be expected to increase if the 8.75 GB minimum service standard were to take effect. Instead, they point to retail prices for services offering 5-10 GB, *see* Sprint Comments at 6; National Lifeline Association Comments, Attachment 1; TruConnect Comments at 3, and claim that an increase in the minimum standard would thus entail such costs for consumers. However, we have previously recognized the difficulty in comparing mobile wireless plans, *Communications Marketplace Report et al.*, GN Docket No. 18-23 et al., Report, 33 FCC Rcd 12558, 12572, para. 18 (2018) (*2018 Communications Marketplace Report*), and find such a comparison especially inapt here. That is because a similar comparison for retail prices of mobile broadband services offering 2 GB/month shows prices that are roughly twice the existing \$9.25 subsidy, *see, e.g.*, National Lifeline Association Comments, Attachment 1—in other words, if such prices directly translated into costs, the free offerings of wireless resellers would already not be free, and yet they are.

²⁵ *See, e.g.*, *Connect America Fund; ETC Annual Report and Certifications*, Report and Order and Order on Reconsideration, 32 FCC Rcd 1624, 1633-34, para. 27 (2017) (noting the "generally greater costs of deploying a higher capacity network at higher speeds").

²⁶ *See* Letter from Joshua S. Turner, Counsel to TracFone Wireless, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42 et al., at 2-3 (filed Oct. 30, 2019) (*TracFone Ex Parte*). *See WAIT Radio*, 418 F.2d at 1159; *Northeast Cellular*, 897 F.2d at 1166.

²⁷ 47 U.S.C. § 254(c)(1).

²⁸ *2016 Order*, 31 FCC Rcd at 3988, para. 69.

appropriately relies on current mobile data usage, which has grown substantially in recent years with the increase in the number of unlimited data plans available to consumers.³¹ As the average smartphone user's data consumption increases, we are mindful of our statutory directive to ensure that all consumers, "including low-income consumers," have access to reasonably comparable services at reasonably comparable rates.³² And the Commission in the *2016 Lifeline Order* specifically rejected the idea that Lifeline subscribers should be consigned to receiving a "second class" service.³³

13. For these reasons, we find good cause to waive the increase in minimum standards but only in part. Specifically, we waive the revised minimum standard to the extent it would require mobile carriers in the Lifeline program to offer more than 3 GB per month from December 1, 2019 through November 30, 2020.³⁴ We believe a 3 GB per month minimum standard balances the core objectives of bringing the mobile broadband usage available to our nation's most vulnerable consumers more in line with what other Americans expect and receive from their service, while maintaining a service that is affordable for low-income consumers.³⁵ Increasing the standard to 3 GB per month is consistent with the Commission's past practice, as the Commission adopted a 1 GB per month increase from 2017 to 2018.³⁶ And as TracFone argues, and CTIA agrees, while increasing the standard to 8.75 GB/month would "make services prohibitively expensive for Lifeline customers," an increase to 3 GB/month is feasible for Lifeline providers and would "best meet the Commission's objectives" for the Lifeline program.³⁷

14. We disagree with commenters that argue that the minimum standard should not increase at all above the existing 2 GB/month standard at this time.³⁸ As explained above, the Commission decided that Lifeline subscribers should not be given only "second class" service—and that the minimum standards were designed to "eliminate" low-quality services from the program (or, put another way, to

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²⁹ Petition at 6.

³⁰ *2018 Communications Marketplace Report*, 33 FCC Rcd at 12568-69, para. 12, Fig. A-8.

³¹ *Id.* at 12570, para. 15.

³² 47 U.S.C. § 254(b)(3).

³³ *2016 Order*, 31 FCC Rcd at 4000, para. 104.

³⁴ Although some parties urge us to extend any waiver to the minimum service standard that would be starting on December 1, 2020, we do not yet have any data on which to base such a standard, let alone a waiver of that standard.

³⁵ TruConnect argues that *Mozilla Corp. v. FCC*, 940 F.3d 1 (D.C. Cir. 2019), impacts the Commission's authority to establish minimum service standards, insofar as the holding in that case raised questions concerning the Commission's authority to include broadband in the Lifeline program. *See, e.g.*, Letter from Judson H. Hill, Counsel to TruConnect, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 11-42, 09-197, 10-90, at 1 (filed Oct. 10, 2019). We note that the opinion in *Mozilla* remanded issues to the Commission related to its decision to classify broadband as a Title I service, and that the decision did not purport to disturb any rules relating to the Lifeline program. We further note that the mandate has not yet issued in *Mozilla*.

³⁶ *See* 47 CFR §54.408(b)(2)(ii)(A)-(C).

³⁷ TracFone *Ex Parte* at 2-5; Letter from Matthew Gerst, Vice President, Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42 et al., at 2 (filed Nov. 5, 2019) (CTIA *Ex Parte*).

“remove the incentive for providers to offer minimal, un-innovative services”).³⁹ And we find that limiting Lifeline subscribers to a usage allowance of less than half of what other smartphone subscribers actually use today would be affording them only second class service—precisely what the Commission deemed unacceptable.

15. Several commenters argue against an increase of the mobile broadband usage minimum standard by suggesting that the current 2 GB minimum standard is sufficient. We disagree. More specifically, Q Link argues that Lifeline consumers only “need” less than 2 GB per month, and points to both data that Verizon customers only use between 1 GB and 2 GB per month and a recommendation from Consumer Reports.⁴⁰ These comparisons are unpersuasive. We note that the cited Verizon data is from 2013 and thus does not account for the rapid growth in mobile broadband usage over the last few years. Similarly, the Consumer Reports recommendation cited by Q Link dates back to November 2018, but beginning August 1, 2019, the same Consumer Reports webpage has instead described “medium data use” as 5 GB/month per phone line, which allows a subscriber to engage in “a little bit of everything.”⁴¹ To the extent that Q Link argues the Commission should base its mobile broadband minimum service standard on current average usage by non-Lifeline subscribers, that amount would be 5.1 GB/month and would therefore support a significant increase in the minimum standards as compared to the previous year.

16. Even if the cited data were more up-to-date, the comparison between a Lifeline household’s maximum usage allowance and the average usage of a non-Lifeline household is inapt. While the average data usage of non-Lifeline subscribers can provide some guidance to help the Commission understand when increases in the program’s minimum service standards are needed to ensure low-income households have access to reasonably comparable service at reasonably comparable rates,⁴² the better, most direct comparisons are between a Lifeline subscriber’s usage allowance and a non-Lifeline subscriber’s (often unlimited) usage allowance, or between the actual average usage of Lifeline subscribers (not clear from the record)⁴³ and the actual average usage of non-Lifeline subscribers (5.1 GB/month in 2017).

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³⁸ See, e.g., Sprint Comments at 9, NaLA Comments at 7, Q Link Comments at 4; Letter from National Hispanic Media Coalition, OCA—Asian Pacific American Advocates, National Consumer Law Center, and United Church of Christ, OC Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42 et al., at 1-2 (filed Nov. 13, 2019); Letter from Judson H. Hill, Counsel for Telscape Communications, Inc. d/b/a TruConnect and Sage Telecom Communications, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42 et al., at 3 (filed Nov. 14, 2019).

³⁹ 2016 Order, 31 FCC Rcd at 4000, para. 104, (quoting *Lifeline and Link Up Reform and Modernization et al.*, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, 30 FCC Rcd 7818, 7837, para. 34 (2015) (2015 Lifeline FNPRM)).

⁴⁰ Q Link Comments at 12 (citing “Making sense of data: How much do you need?,” Verizon, available at <https://www.verizonwireless.com/articles/making-sense-of-data-how-much-do-you-need/> (Dec. 12, 2013), and “Cell Phone & Service Buying Guide,” Consumer Reports, available at <https://web.archive.org/web/20190709235644/https://www.consumerreports.org/cro/cell-phones-services/buying-guide/index.htm>).

⁴¹ “Cell Phone & Service Buying Guide,” Consumer Reports, available at <https://www.consumerreports.org/cro/cell-phones-services/buying-guide/index.htm> (last visited Nov. 6, 2019) (also describing 2 GB per month per phone as a “light data use” service).

⁴² See *supra* para. 12; 47 U.S.C. § 254(b)(3).

⁴³ Although Sprint states that its “Lifeline customer’s average data usage is significantly below the current allowance” of 2 GB, it did not provide any data to support this assertion. See Letter from Norina T. Moy, Director, Government Affairs, Sprint, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42 et al., at 1 (filed Aug. 19, 2019) (Sprint August *Ex Parte*).

17. We also decline the request of the National Lifeline Association (NaLA) and Q Link to allow carriers to claim Lifeline broadband support for packages that include only 2 GB of mobile broadband data and 1,000 minutes of voice service.⁴⁴ A Lifeline offering that includes qualifying voice service along with broadband that does not meet the broadband minimum service standards will only receive the applicable support amount set out in section 54.403(a)(2) of the Commission's rules.⁴⁵ The Bureau has also previously clarified that a bundled Lifeline offering must meet the minimum service standard for the specific service being claimed for support, whether voice or broadband.⁴⁶ We find that this Order's partial waiver of the updated mobile broadband minimum service standard strikes an appropriate balance. NaLA and Q Link have not demonstrated in their filing why their requested deviation would further the public interest.

18. *Voice Support Phase-Down.* Petitioners also request a waiver of the scheduled phase-down of Lifeline support for voice service (i.e., those services that do not meet the broadband minimum standards) until the Bureau completes the *State of the Lifeline Marketplace Report*.⁴⁷ Petitioners and commenters fail to establish, however, that compliance with this rule would be inconsistent with the public interest, or that the effects of the voice support phase-down were unanticipated by the Commission in the *2016 Order*. In the *2016 Order*, the Commission adopted the phase-down in Lifeline support for voice service to ensure that the Lifeline program is focused on supporting "modern service offerings" to help low-income consumers participate in an evolving economy.⁴⁸ The record does not provide a basis to conclude that the scheduled \$2 reduction in support for voice service is comparable in effect to the unexpected fourfold increase in the minimum service standard for mobile broadband usage that we discuss above. Indeed, providers have known for over three years that support for service not meeting the broadband minimum service standards would be reduced by \$2 on December 1, 2019, and so they have had ample time to adjust their business practices, notify subscribers, negotiate contracts, and otherwise modify their business plans.

19. Additionally, neither Petitioners nor commenters have shown that implementing the proposed phase-down would result in harm to Lifeline subscribers that would justify a waiver of the Commission's rules. Petitioners correctly note that many Lifeline subscribers currently apply their

⁴⁴ Letter from John S. Heitmann, Counsel to the National Lifeline Association and Q Link Wireless, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42 et al., at 2 (filed Oct. 30, 2019) (NaLA and Q Link *Ex Parte*) (stating that "the Commission should also approve a mobile broadband bundle minimum of 2 GB and 1,000 minutes (3,000 units in total – the same as 3 GB) for \$9.25 per month"); Letter from John S. Heitmann, Counsel to the National Lifeline Association and Q Link Wireless, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42 et al., at 2-3 (filed Nov. 13, 2019) (reaffirming arguments raised in its Oct. 30, 2019 *ex parte*); Letter from John S. Heitmann, Counsel to the National Lifeline Association and Q Link Wireless, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42 et al., at 2-3 (filed Nov. 15, 2019); Letter from Phillip Berenbroick, Policy Director, Public Knowledge, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42 et al., at 1-2 (filed Nov. 15, 2019) (supporting this proposal); *but see* Letter from Leo Fitzpatrick, Policy Counsel, Free Press, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42 et al., at 1-2 (filed Nov. 12, 2019) (expressing concerns regarding the proposal of NaLA and Q Link).

⁴⁵ See 47 CFR § 54.403(a)(2).

⁴⁶ See *Wireline Competition Bureau Provides Guidance Regarding Designation as a Lifeline Broadband Provider and Lifeline Broadband Minimum Service Standards*, Public Notice, 31 FCC Rcd 10927, 10932-33, paras. 14-15 (WCB 2016).

⁴⁷ Petition at 6-9; *see also* Letter from Ken McEldowney, Executive Director, Consumer Action, to Marlene Dortch, Secretary, FCC, WC Docket No. 11-42 et al. (filed Nov. 8, 2019); Letter from Leo Fitzpatrick, Policy Counsel, Free Press, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42 et al., at 1-2 (filed Nov. 12, 2019); Letter from Phillip Berenbroick, Policy Director, Public Knowledge, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42 et al., at 1-2 (filed Nov. 15, 2019).

⁴⁸ See *2016 Order*, 31 FCC Rcd at 3981, 4002, paras. 52, 110.

Lifeline benefit to a qualifying voice service, but Petitioners do not show that the phase-down in voice support would result in unaffordable services or lead to de-enrollments from the program.

20. Q Link also asserts that the long-anticipated phase-down would increase the price for voice customers or require them to switch to a bundled voice and broadband plan but with a smaller data allowance.⁴⁹ We are not persuaded by this argument. To the extent Q Link is effectively seeking reconsideration of the Commission's reasoned decision to phase down voice support, that request is untimely, and Q Link has identified no new circumstances that would warrant a waiver.⁵⁰ NaLA also argues that a phase-down would be harmful because current non-Lifeline prepaid customers "must pay an average of \$15-\$20 for a plan that includes 1,000 minutes."⁵¹ Other providers' comments show, however, that they are able to provide similar offerings that include at least 1,000 minutes, supported by a \$9.25 reimbursement and no end-user payment,⁵² and NaLA fails to show that the planned reduction in voice support would have harmful effects on Lifeline customers or would render Lifeline providers unable to provide the same voice service while receiving a \$7.25/month reimbursement. Finally, NaLA and Q Link argue that "phasing out support for voice-only service endangers public safety."⁵³ We note that we are merely reducing, not eliminating, the support available for voice-only service, and that there is no evidence in the record that the long-contemplated decrease in support will have any negative impacts on public safety.

21. Ultimately, because Petitioners have failed to establish that the planned phase-down for Lifeline voice support would be inconsistent with the public interest (let alone surmount the hurdle that the Commission found in the *2016 Lifeline Order* that this precise phase-down would be in the public interest), we deny that portion of their Petition.

IV. ORDERING CLAUSES

22. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and section 1.3 of the Commission's rules, 47 CFR § 1.3, that section 47 CFR § 54.408(b)(2)(ii)(D) of the Commission's rules is waived to the limited extent provided herein.

⁴⁹ Q Link Comments at 4, 14.

⁵⁰ For the same reasons, we reject the proposal by Prepaid Wireless Group and StandUp Wireless to continue providing \$9.25 in Lifeline support for offerings that include 3,000 minutes of voice. See Letter from Jeffrey Carlisle, Counsel to Prepaid Wireless Group and StandUp Wireless, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42 et al. (filed Nov. 8, 2019). Such a waiver would be contrary to the Commission's intent in adopting the phase down in voice support in the *2016 Order*.

⁵¹ NaLA Comments at 9.

⁵² See TracFone Comments at 2; Q Link Comments at 8; TruConnect Comments at 3; Universal Service Administrative Company, High Cost and Low Income Committee Briefing Book, at 52 (July 2019), <https://www.usac.org/res/documents/about/pdf/bod/materials/2019/High-Cost&Low-Income-Briefing-Book-July.pdf> (showing that 46.85% of Lifeline subscribers received a service that included at least 1,000 voice minutes in June 2019).

⁵³ NaLA and Q Link *Ex Parte* at 3.

23. IT IS FURTHER ORDERED, that pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and section 1.3 of the Commission's rules, 47 CFR § 1.3, that the request for waiver filed by CTIA, National Consumer Law Center, on behalf of its low-income clients, National Hispanic Media Coalition, OCA—Asian Pacific American Advocates, and United Church of Christ, OC Inc. is GRANTED in part and otherwise DENIED.

24. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

**STATEMENT OF
COMMISSIONER JESSICA ROSENWORCEL,
DISSENTING**

Re: *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42; *Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No. 09-197; *Connect America Fund*, WC Docket No. 10-90, Order

Three years ago, the Federal Communications Commission decided to modernize the Lifeline program for the broadband era. As part of this effort, the agency planned a series of changes to the program's minimum standards that over time would refocus the program on broadband.

However, in the intervening years it has become apparent that those who rely on Lifeline still depend deeply on the program for voice services and the formula used to update data minimums may have unintended consequences. In other words, while the market has evolved, it has not moved in the ways we previously imagined. As a result, several months ago a coalition including the National Consumers Law Center; National Hispanic Media Coalition; OCA—Asian Pacific American Advocates, United Church of Christ, OC, Inc., and CTIA filed a petition asking the FCC to pause the changes in support set to take place at the start of next month. They made a compelling case that further study is warranted before making these adjustments because the impact of the changes could be severe. I think that under the circumstances, this kind of pause is a smart approach. In fact, I think it would be the best course for the FCC and the program right now. I regret that my colleagues do not agree. For this reason, I choose to dissent.

Finally, while I am sympathetic to the increase in minimum data allowances that are part of this decision, I fear this does nothing to provide the certainty we need for this program. In fact, without pausing for review, the FCC will simply be back in the same place, wrestling with the same issues, and more of the same scheduled service adjustments at this time next year.

**STATEMENT OF
COMMISSIONER GEOFFREY STARKS,
DISSENTING**

Re: *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42; *Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No. 09-197; *Connect America Fund*, WC Docket No. 10-90, Order

In 2016, the Commission adopted minimum service standards for Lifeline-supported services.¹ It turns out the expectations for the Lifeline marketplace are not the reality we have today, and this is why a petition was filed earlier this year to pause the changes set to go into effect on December 1, 2019.²

In fact, the Order before us today acknowledges that there is a misalignment between current marketplace dynamics and the Commission's efforts to set standards for the program, including the large increase in the required data allotment. The Bureau is working on a report that will give us a better understanding of the Lifeline market. Until that report is completed and analyzed, it is my belief that we should refrain from making any additional changes until we have the necessary data to make informed decisions, rather than rushing to impose standards that may have far-reaching ramifications on the program.

Additionally, it is important to note that the record reflects overwhelming support for pausing the voice-only phase down.³ The fact of the matter is that the voice-only phase down will likely have a real impact on the nearly one million people who subscribe to these services. I fear that our poorest Americans now risk losing their link to emergency services, doctors, employers, and family.

For all of these reasons, I dissent.

¹ *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962 (2016).

² Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study, WC Docket No. 11-42 et al. (filed June 27, 2019).

³ See, e.g., Letter from John J. Heitmann, Counsel to the National Lifeline Association and Q Link Wireless LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 11-42 et al. (filed Nov. 15, 2019); Letter from Phillip Berenbroick, Policy Director, Public Knowledge, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 11-42 et al. (filed Nov. 15, 2019); Letter from Alex Nogales, President & CEO, National Hispanic Media Coalition et al., to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 11-42 et al. (filed Nov. 13, 2019); Letter from Leo Fitzpatrick, Policy Counsel, Free Press, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 11-42 et al. (filed Nov. 12, 2019); and Letter from Matthew Gerst, Vice President, Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 11-42 et al. (filed Nov. 5, 2019).